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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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222 NORTH LASALLE STREET
CHICAGO, IL 60601

EXAMINER

GREENE, DANIEL L

ART UNIT PAPER NUMBER

3621

DATE MAILED: 02/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/056,569

Applicant(s)

WANDMACHER ET AL.

Examiner

Daniel L. Greene

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 16-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 16-212 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 11/29/2004 have been fully considered but they are not persuasive. The Applicant argues that the final Office Action does not identify specifically which language in the claim is alleged to be "nonfunctional descriptive material". The Final Office Action addressed the issue by stating, "The primary reference, Gindlesperger teaches about vendor's databases that have a plurality of vendors with each of their respective capabilities that could be required by a buyer. The buyer would design the required capabilities list of the vendors in the database to fit their specific needs and wants. The types/kinds of capabilities incorporated into the databases does not render a method unique or original. Gindlesperger discloses preferential treatment of vendors in their databases that have specific capabilities that they need and want by only requesting of them to bid.

5. Independent claims 1 and 16 effectively decouple vendor certification and an entity providing preferential treatment to the vendor. The Applicant does not specify in the claims who provides a vendor certification program comprising a curriculum via the communication network on a fee basis and who receives a notification, from an entity administering the vendor certification program, that a vendor has successfully completed the vendor certification program. The Examiner in taking the broadest interpretation of these two limitations interprets that the entity providing the vendor certification program is independent of the entity giving preferential treatment to a vendor and the notification goes

Art Unit: 3621

to the vendor not the entity giving preferential treatment. The vendor in providing their qualifications to the entity requesting their services could/would include their certification as part of the qualification data requested by the entity requiring services. The "nonfunctional descriptive material" is "the certified vendor status" because any type of certification, experience, size, expertise, etc. can confer preferential consideration to the vendor during the acquisition decisions by an entity if they want a specific attribute or certification. Gindlesperger teaches about the use of a database cataloging the attributes that the user wants a contractor to have to do the job.

The Examiner agrees with the Applicant with he states Gindlesperger ... appears to be directed to a completely different problem namely sending invitations to bid for qualified vendors. The vendors are qualified by meeting the specifications/requirements of the buyer. As previously stated, the buyer can set any kind/type of qualifications, one of which could be certain types of certifications. It would have been obvious to a person of ordinary skill in the art at the time of the invention to receive some type of notification from a vendor certification entity that the person has passed or failed the program. It is also obvious that some type of certificate is provided to substantiate the successful completion of the program such that it can be used to prove their successful completion to an independent third party. Because claims 1 and 16 effectively decouple vendor certification and an entity providing preferential treatment to the vendor, the vendor certification aspect of the claims becomes only an attribute that can be specified by a vendor to provide preferential treatment just as expertise, size, personal, etc. could be and does not render the claims unique, original or non-obvious.

Allowable Subject Matter

Independent claims 9, 22, 29, and 34 with their respective dependent claims are considered allowable over the prior art.

7. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-8, 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gindlesperger, U.S. Patent 6,397,197 131 (Gindlesperger'197) and in further view of Computer Reseller News, ISSN 0893-8377 (CRN'377).

As per claims 1, 2, 16, and 18:

Gindlesperger'197 discloses the claimed invention, except for the specific step of receiving a notification, from an entity administering the vendor certification program, that a vendor has successfully completed the vendor certification program. However, Gindlesperger'197 does teach about vendor capability attribute data that is submitted. It

Art Unit: 3621

would have been obvious to a person of ordinary skill in the art at the time the invention was made to include in the vendor capability attribute data specific information that would qualify a vendor to provide services to a specific buyer. Those specific capability attributes required by a specific buyer could be location, production capability, and certifications regarding program specific requirements. etc. Gindlesperger'197 does not expressly show the collected data including vendor certification completion.

However this difference is only found in the nonfunctional descriptive material and is not functionally involved in the steps recited. The collecting and rating of a vendor would be performed the same regardless of the data.

Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to collect from a vendor the type of data required by the buyer because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention. Therefore the teachings of Gindlesperger'197 will perform the invention as claimed by the applicant with any means, method, or product to screen and rate a vendor.

granting certified vendor status upon the vendor indicated in the notification, Col. 5, lines 10-25.

wherein the certified vendor status confers preferential consideration to the vendor during acquisition decisions by an entity. Col. 5, lines 10-25.

Gindlesperger'197 discloses the claimed invention except for providing a vendor certification program comprising a curriculum via the communication network on a fee basis. CRN'377 teaches that it is known in the art to provide a vendor certification program via the communication network on a fee basis. 2nd pg. 4th Para. CRN'377 does not specifically teach about a curriculum associated with the certification program but it is implicit that a certification program would have a curriculum associated with it.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the vendor attribute capability program of Gindlesperger'197 with providing a vendor certification program via the communication network on a fee basis of CRN'377, in order to increase the number of vendors qualified to meet the buyer's requirements to minimize dependency on to few vendors.

As per claims 3, and 17

Gindlesperger'197 further discloses:

wherein the curriculum is based on subject matter expertise possessed by the entity.
Col. 4&5.

As per claim 4:

Gindlesperger'197 further discloses as per Col. 5:
undertaking an acquisition decision;

Art Unit: 3621

accessing information regarding a plurality of vendors, the plurality of vendors comprising at least one vendor having certified vendor status; and providing preferential consideration to the at least one vendor having certified vendor status when resolving the acquisition decision.

As per claim 5:

Gindlesperger'197 further discloses:

wherein the vendor comprises a plurality of personnel, and wherein granting of the certified vendor status further comprises granting variable levels of certified vendor status such that increasing numbers of the plurality of personnel that have successfully completed the vendor certification program confers increasing levels of preferential consideration.

Col. 6-7.

As per claims 6-8, and 19-21:

Gindlesperger'197 discloses the claimed invention except for providing a vendor certification program comprising a curriculum via a public communication network, an Internet or World Wide Web communication network and or a private communication network. CRN'377 teaches that it is known in the art to provide a vendor certification program via a public communication network, an Internet or World Wide Web communication network and or a private communication. 2nd pg. 4th Para.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the vendor attribute capability program of Gindlesperger'197 with providing a vendor certification program via the communication network of CRN'377, in

Art Unit: 3621

order to increase the number of vendors qualified to meet the buyer's requirements to the claims below for the convenience of the applicant.

Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel L. Greene whose telephone number is 703-306-5539. The examiner can normally be reached on M-Thur. 8am-6pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammell can be reached on 703-305-9768. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3621

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daniel L. Greene
Examiner
Art Unit 3621

1/26/2005



JAMES P. KRAMMELL
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